

FINAL BILL REPORT

SB 5289

C 26 L 11 E 1
Synopsis as Enacted

Brief Description: Concerning a business and occupation tax deduction for payments made to certain property management companies for personnel performing on-site functions.

Sponsors: Senators Murray and Zarelli.

Senate Committee on Ways & Means
House Committee on Ways & Means

Background: Property owners often hire property management companies to manage their real property. Frequently, the property management companies also manage the personnel who perform the necessary services at the property location.

Under legislation adopted in 1998, property management companies are not responsible for paying business and occupation (B&O) taxes on amounts they receive for and pay to an on-site employee when (1) the employee works primarily at the owner's property; (2) the employee's duties include leasing property units, maintaining the property, collecting rents, or similar activities; and (3) under the property management agreement, the employee's compensation is the ultimate obligation of the property owner, and all actions, including hiring, firing, compensation, and conditions of employment, taken by the property manager are subject to the approval of the property owner. The money must be paid from a property management trust account.

In 2010 Second Engrossed Substitute Senate Bill 6143 narrowed the B&O tax exemption covering property management companies for amounts received from a property owner for compensation of on-site personnel to apply only to (1) nonprofit property management companies; and (2) property management companies receiving amounts from a housing authority for compensation of on-site personnel. However, because of the nature of how housing authorities and non-profit management companies are organized in the area of low-income housing, they do not always qualify for the exemption provided in 2010.

Summary: A B&O tax deduction is permitted for amounts that (1) a nonprofit property management company receives for compensating on-site employees from the owner of property; (2) a property management company receives for compensating on-site employees from a housing authority; and (3) a property management company receives for compensating on-site employees from a limited liability company or limited partnership of which the sole managing member or sole general partner is a housing authority.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The B&O tax exemption is repealed for amounts received by (1) a nonprofit property management company from a property owner for compensation of on-site personnel paid from a property management trust account; and (2) a property management company from a housing authority for compensation of on-site personnel paid from a property management trust account.

The definition for on-site personnel is changed to a definition of personnel performing on-site functions. The new definition enables personnel to work at the owner's property or centrally perform on-site functions, rather than to require that they work primarily at the owner's property.

The definition of nonprofit management company is modified to (1) require an organization to qualify for a property tax exemption for providing property management services for low-income housing in addition to the current requirement of being a 501(c) federally tax-exempt organization; and (2) include public corporations established by cities, towns, or counties for limited and specified purposes.

Votes on Final Passage:

Senate 44 0

First Special Session

Senate 42 0

House 85 3 (House amended)

House 90 0 (House receded)

Effective: August 24, 2011.